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MAY - 2 2011

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF LOUISIANA

TONY R. MOORE, CLERK
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE, LOUISIANA

LAFAYETTE DIVISION

UNITED STATES OF AMERICA

CRIMINAL ACTION NO: 05-60012

VERSUS

JUDGE DOHERTY

ANTONIO DECARLO GREEN

MAGISTRATE JUDGE METHVIN

MEMORANDUM RULING AND ORDER

Before the Court is the “Defendant’s Motion to Reduce his Federal Sentence Pursuant to 18 U.S.C. 3582(c)(2)” [Doc. 109], filed by defendant Antonio Green. The defendant was convicted at trial of one count of Distribution of Cocaine Base in violation of 21 U.S.C. §841(a)(a) and one count of Use of a Communication Facility in violation of 21 U.S.C. §843(b). On October 27, 2008, the defendant was sentenced to 87 months on the distribution count and 48 months on the communications facility count, to run concurrently, for a total term of imprisonment of 87 months, with credit for time served. The sentence imposed was a non-guidelines sentence.¹ Also, because the defendant was sentenced in 2008, he was sentenced after the 2007 retroactive amendments to the sentencing guidelines for crack cocaine offenses became effective.

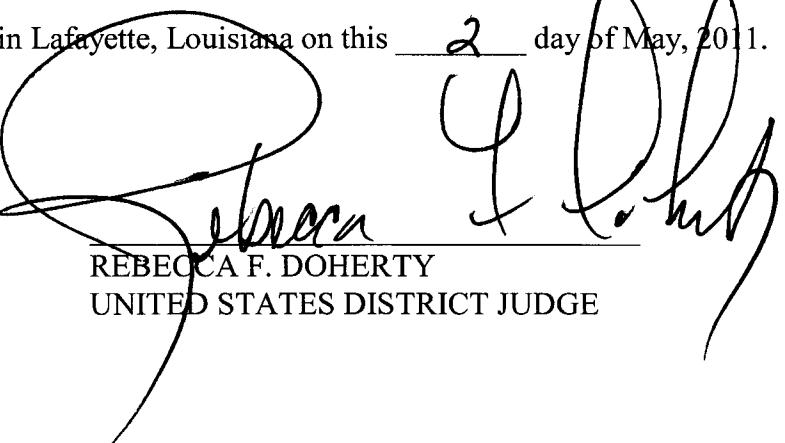
Considering the foregoing, to the extent the defendant is seeking a sentence reduction pursuant to the 2007 retroactive amendments to the sentencing guidelines for crack cocaine offenses, he has already received the benefit of a reduced sentence pursuant to those amendments. To the

¹ The guidelines sentencing range on count 1 was 97 months to 121 months; the range on count 2 was 48 months.

extent the defendant is seeking a reduction pursuant to the Fair Sentencing Act (“FSA”),² the Fifth Circuit has held the Federal Savings Clause precludes retroactive application of the FSA. *See United States v. Doggins*, 633 F.3d 379, 384 (5th Cir.2011).

Considering the foregoing, the defendant’s request for relief is DENIED at this time. Should Congress or the Sentencing Commission determine the Fair Sentencing Act is to be applied retroactively to cases like the defendant’s, the defendant may re-urge the instant motion should he deem it appropriate.

THUS DONE AND SIGNED in Lafayette, Louisiana on this 2 day of May, 2011.


REBECCA F. DOHERTY
UNITED STATES DISTRICT JUDGE

SENT
DATE 5-2-11
BY OA
TO USPO

² The Fair Sentencing Act (“FSA”), an “Act to restore fairness to [f]ederal cocaine sentencing,” was enacted on August 3, 2010.